UNITED STATES PATENT AND TRADEMARK OFFICE

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NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04/11/06*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 04/11/06.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-20 are pending.

Claim Objections

2.   Claims 18 and 20 are objected to under 37 CFR 1.75(c), as being of improper dependent

form for failing to further limit the subject matter of a previous claim. Applicant is required to

cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite

the claim(s) in independent form. For compact prosecution, examiner has treated the above claims

to depend on claim 1 and 9, respectively.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

4.   Claims 1-8 and 17-18 are rejected under 35 U.S.C 101 because the claimed invention is

directed to non-statutory subject matter.

With respect to claim 1, the claim is directed to a system. However, as recited, the system is

reasonably interpreted as entirely software, which amounts to descriptive material per se. The system

is not supported by hardware such as tangible computer storage or execution engine, which would

enable one skill in the art to construe that the system, is built from tangible product to carry out any

functionality being conveyed from the claim. Thus, the system is software *per se* and therefore is not

being tangibly embodied in a manner as to be executable. See MPEP § 2106.01.

Claims 2-8 and 17-18 are rejected for failing to cure the deficiencies of the above rejected

non-statutory claim 1 above.

5.   To expedite a complete examination of the instant application, the claims rejected under 35

U.S.C. §101 (non-statutory) above are further rejected as set forth below in anticipation of Applicant

amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the
> subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

7.   Claims 1-2, 4, 9-10, 12, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1).

        As per claim 1 (Currently Amended), Gonzalez discloses a system for automatically creating,

installing, verifying and configuring functionalities, stored in installation, verification and/or

configuration files (e.g. ¶ [0015], creating network installation packages with configuration with pre-

validation, FIG. 2) , for system components, arranged in a distributed network (e.g. FIG. 1,

Distributed System 10, ¶ [0020], installation in distributed system, FIG. 10, Installation,

Configuration), using a knowledge-based system planning tool (1) which comprises a user interface

(10) (e.g. FIG. 8, User Interface), planning logic unit (e.g. ¶ [0009], planning module), a data

management unit (e.g. FIG. 2, Network Install Manager 80), a planning database (e.g. FIG. 2, 83,

database), where

        -       selected system options in the user interface are selected for the planning logic unit

                (e.g. FIG. 8, options in the user interface for Planning, installation, HW

                Configuration, e.g. ¶ [0051], right click on option for topology (structure), e.g. FIG.

3, 122, topology (structure) diagram) and the data management unit (e.g. FIG. 8,

Network Installation Mgr. 80),

- the planning database stores system information for the data management unit (e.g.

FIG. 2, database 83, contains information about the system hardware and

software), the planning logic unit produces plans for the system structure from the

system options in the user interface (e.g. FIG. 2, Planning Module 81 generates

plans in the GUI, FIG. 8, ¶ [0056], planning module 81, used for guidance) and

supplies them to the data management unit (e.g. ¶ [0056], planning module 81, used

for guidance, user execute installation manager 80 and call up planning module to

obtain guidance, i.e. plans are supplied to installation manager 80),

- the data management unit generates and configures software packages from the

system options in the user interface (e.g. ¶[0050], ¶ [0051], ¶ [0052], network

installation manager 80 may then push software setting for configuration and also

for installing the named software package), from the system information in the

planning database (e.g. FIG. 2, database 83) and from the plans for the system

structure which are produced in the planning logic unit (e.g. ¶ [0009], planning

module), and

- Gonzalez discloses how the software is installed (e.g. FIG. 4, Push Software 218,

e.g. (e.g. ¶ [0052], allow the user to launch the software that has been pushed). However, Gonzalez

does not explicitly disclose transfers the software packages to the installation tool. Nevertheless, as

evidenced by the teaching of Wookey, it is commonly known to transfer software packages for

installation to installation tools (e.g. ¶ [0012], installation tool to install software package). Thus, it is

respectfully submitted that it would have been obvious to one skilled in the art at the time the

invention was made to have an installation tool in order to dynamically install software package as once suggested by Wookey (e.g. ¶ [0012]).

As per claim 2 (Currently Amended), Gonzalez discloses the system as claimed in claim 1, ~~characterized in that~~ wherein functionalities stored in installation, verification and/or configuration files are software packages (e.g. FIG. 2 and ¶ [0040], multiple software packages 85 with installation, verification and/or configuration).

As per claim 4 (Currently Amended), Gonzalez discloses wherein the system options selected in the user interface comprises information about the system structure (e.g. ¶ [0051], right click on option for topology (structure), e.g. FIG. 3, 122, topology (structure) diagram) and the system types (e.g. ¶ [0051], option for topology (structure) and node type (system type)).

As per claim 18 (New), Gonzalez discloses the system as claimed in claim 17, wherein the system options selected in the user interface comprise information about the system structure (e.g. ¶ [0051], option for topology (structure), e.g. FIG. 3, 122, topology (structure) diagram) and the system types (e.g. ¶ [0051], option for topology (structure) and node type (system type) and e.g. FIG. 2, database 83, contains information about the system hardware and software).

Per claims 9-10, 12 and 20, these are method claims substantially paralleling the limitations in system claims 1-2, 4, and 18, respectively. The above combined references further disclose these methods in implementing the prescribed steps, and all other limitations have been addressed as set forth above.

8.   Claims 3, 11, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), further in view of Brown (US 2003/0212780 A1).

As per claims 3 and 11 (Currently Amended), Gonzalez and Wookey do not disclose wherein the data management unit interacts with a change unit in order to update the planning data stored in the planning database and/or the plans produced by the planning logic unit. However, Brown, discloses updating planning data in the data base to reflect changes (e.g. ¶ [0068]). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by having the data management unit interact with a change unit in order to maintain the planning data up to date in the planning data base (e.g. ¶ [0068]).

As per claim 17 (New), neither Gonzalez nor Wookey explicitly disclose wherein the data management unit interacts with a change unit in order to update the planning data stored in the planning database and/or the plans produced by the planning logic unit. Nevertheless, as evidenced by the teaching of Brown, it is commonly known to have a unit interact with a change unit in order to update the planning data stored in the planning database and/or the plans produced by the planning logic unit discloses updating planning data in the data base to reflect changes (e.g. ¶ [0068]). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to have the data management unit interact with a change unit in order to maintain the planning data up to date in the planning data base.

As per claim 19 (New), neither Gonzalez nor Wookey explicitly disclose wherein a change unit is used to update the planning data stored in the planning database and/or the plans produced by the planning logic unit. Nevertheless, as evidenced by the teaching of Brown, it is commonly known to have a change unit to update the planning data stored in the planning database and/or the plans produced by the planning logic unit (e.g. ¶ [0068]). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to have change

unit used to update the planning data stored in the planning database as once suggested by Brown (e.g. ¶ [0068]).

9.   Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Gazdik et al. (US 6,301,708 B1).

        As per claim 5 (Currently Amended), Gonzalez and Wookey do not explicitly discloses wherein the software packages are system component data and setup data for the system components. However, Gazdik discloses the incorporation of component data file in software package (e.g. col.3:1-5). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by incorporating component data file in software package in order to supply the component data and set up data in software format during updating the software as once suggested by Gazdik (e.g. col.3:1-5).

10.   Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Chen et al. (US 7,409,685 B2).

        As per claim 6 (Currently Amended), Gonzalez and Wookey do not explicitly wherein a data generator is provided in the data management unit for producing the software packages. However, Chen discloses a generator to build software package (e.g. FIG. 5B). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by having a data generator incorporated in the data management unit in order to efficiently provide software packages through the data management unit.

11.   Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Te'eni et al. (US 6,725,452 B1).

        As per claim 7 (Currently Amended), Gonzalez and Wookey do not explicitly disclose wherein the installation tool automatically checks the software packages taking account of rules, stipulations and dependencies among the system components. However, Te'eni, it is commonly known to have an installation tool automatically check the software packages taking account of rules (e.g. col.7:35-40, dependency check, component A-specific rule). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to have an installation tool automatically check the software packages taking account of rules, stipulations and dependencies among the system components in order to resolve any conflict with regard to software packages taking account of rules, stipulations and dependencies among the system components.

12.   Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Agulhon (US 6,912,543 B2).

        As per claim 8 (Currently Amended), neither Gonzalez nor Wookey discloses wherein the installation tool provides the software packages for transmission, installation and configuration for the respective system components. However, Agulhon discloses an install tool which is configured to transfer or transmit data files (e.g. col.1:45-50). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by having the installation tool provide functionality such as transmission in order to provide multiple functionality incorporated in the installation tool.

Note: Per claims 13-16, these are method claims substantially paralleling the limitations in system claims 5-8, respectively. The above combined references further disclose these methods in implementing the prescribed steps, and all other limitations have been addressed as set forth above.

Conclusion

13.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISAAC T. TECKLU whose telephone number is (571)272-7957. The examiner can normally be reached on M-F 9:00A - 5:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Isaac T Tecklu/
Examiner, Art Unit 2192